

PT 98-71

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

CENTENARY UNITED)	Docket #	96-25-18
METHODIST CHURCH)		
Applicant)	Parcel Index #	03-16-051-001
)		
v.)	Barbara S. Rowe	
THE DEPARTMENT OF REVENUE)	Administrative Law Judge	
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Michael J. Meyer, Attorney at Law, for Centenary United Methodist Church.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 W. Jefferson, Springfield, Illinois, on November 10, 1997, to determine whether or not Effingham County Parcel Index No. 03-16-051-001 qualified for a property tax exemption during the 1996 assessment year.

Bobby Devall and Reverend Stephen King of Centenary United Methodist Church (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1996 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether the parcel was being adapted for exempt use during the portion of the 1996 assessment year at issue. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel from May 30, 1996, through

December 31, 1996. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant was in the process of adapting the property for religious purposes during the period of May 30, 1996, through December 31, 1996.

Findings of Fact:

1. The jurisdiction and position of the Department that Effingham County Parcel Index No. 03-16-051-001 did not qualify for a property tax exemption for a portion of the 1996 assessment year was established by the admission into evidence of Department's Exhibit Nos. 1 through 5. (Tr. p. 9)

2. On September 5, 1996, the Department received a property tax exemption application from the Effingham County Board of Review for Permanent Parcel Index No. 03-16-051-001. The applicant had submitted the request, and the board recommended that the Department grant a partial year exemption from May 30, 1996, through December 31, 1996 for the 1996 assessment year. The Department assigned Docket No. 96-25-18 to the application. (Dept. Grp. Ex. No. 2)

3. On June 26, 1997, the Department denied in part the requested exemption application, finding that the property was in exempt use for 20% of the 1996 assessment year. (Dept. Ex. No. 3)

4. The applicant timely protested the partial denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on November 10, 1997, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject parcel by a warranty deed dated May 30, 1996. (Dept. Ex. No. 2 pp. 5-6)

7. Located on the property is a split-level house that contains 2311 square feet (hereinafter referred to as "Centenary Hall" or "Hall"). The applicant intended to use the Hall as

a Sunday School/Music Annex. (Dept. Ex. No. 2 pp. 1-2, 7)

8. At the time of purchase, the Hall contained a kitchen/dining area, living room, and four bedrooms in the upper level. The plan of the applicant was to convert the rooms to three meeting rooms with appropriate tables and chairs, two future meeting rooms, and a quilter's room. (Dept. Ex. No. 2 pp. 16, 27-28)

9. Located in the lower level were four additional rooms intended for storage, a room labeled meeting room four, and the garage that was designated as an additional storage area. Noted on the submission by the applicant was the fact that storage began in October, 1996. (Dept. Ex. No. 2 pp. 17, 29)

10. In the "Summary of progress" for the Hall submitted with the application, the first work day for the subject property was held on October 19, 1996. (Dept. Ex. No. 2 p. 22)

11. On November 29, 1995, the administrative board of the applicant approved the trustee resolution for purchasing the subject property. At the Church Conference held December 10, 1995, the church voted to purchase the property. (Dept. Ex. No. 2 pp. 23-26; Applicant's Ex. No. 20)

12. Various areas of the Hall needed to be repaired before the applicant could use them for the intended purposes. (Dept. Ex. No. 2 pp. 27-29)

13. The applicant held the "kick-off" for the financing campaign for the subject property on February 24-25, 1996. (Tr. p. 14)

14. Prior to the purchase of the subject parcel and an adjoining one, the applicant's church was land-locked which prevented church growth. The applicant needed to start additional Sunday school and small group classes and there were no rooms available at applicant's church. Parking space was also needed. Applicant's membership is approximately 1200 parishioners. The subject property offers 11-12 additional parking spaces. (Tr. pp. 20-24, 43-44)

15. Upon purchasing the property, applicant began ensuring that the property was properly covered for insurance purposes and checking that there were no outstanding liability issues. Applicant also checked to confirm that the zoning of the property allowed them to use

the building for the intended purposes. The utilization committee was responsible for considering the specific uses for the various rooms in the building in question and verifying that those uses were possible. (Tr. pp. 23-25, 33; Applicant's Ex. No.18)

16. The education committee of the applicant is responsible for assigning rooms for Sunday school and various events. From May 30, 1996, through December 31, 1996, the education committee was working concurrently with the building committee, the long-range planning committee, and the utilization committee to ascertain the timing of the inhabitability of the building. (Tr. pp. 23-24, 36; Applicant's Ex. Nos. 10, 11)

17. The trustees of the applicant held a special meeting on July 29, 1996 to address concerns regarding the subject property. Although the structure of the building was sound, physical remodeling was necessary before the building could be used for any of applicant's purposes. The structure had been vacant for some time prior to the purchase and there had been some leakage problems. Also, cabinets and carpeting had to be removed. The wiring was not up to code. (Tr. pp. 28, 49-51; Applicant's Ex. Nos. 12, 13, 16, 17)

18. A building renovation committee was formed on July 29, 1996, as an extension of the utilization committee, to address the modifications and remodeling necessary within the Hall. The building renovation committee was to take care of the physical requirements. (Tr. p. 29; Applicant's Ex. No. 12)

19. Applicant conferred with the city of Effingham who informed the applicant that they were in violation of several city codes on the property which required significant structural changes to the building before inhabitation was possible. The applicant eventually found that they were not liable for as extensive renovation as originally stated by the City. However, it took time to resolve that issue. (Tr. pp. 28-30, 39, 52-54; Applicant's Ex. No. 13)

20. At a special meeting of the Board of Trustees of the applicant held September 30, 1996, the trustees discussed concerns regarding possible violations of the city codes. It was determined that temporarily the property should only be used for meetings. (Tr. pp. 30, 38; Applicant's Ex. No. 14)

21. On October 14, 1996, four days before the first scheduled work day on the parcel, the applicant was notified by the City that the extensive renovations which the City had proposed were not necessary. The City had been under the mistaken impression that the applicant intended to carry on a day-care operation in the Hall. (Tr. pp. 39, 51-54)

22. The trustees had initially set aside \$25,000.00 for the renovation of the property. At the September 30, 1996, trustee's meeting, it was affirmed that amount was adequate for the projected projects on the subject property. (Tr. p. 31; Applicant's Ex. No. 14)

23. By the time of the hearing, applicant had three Sunday school classes that meet in the Hall on a weekly basis. Two Bible studies groups and the quilter's group also meet there weekly. Other groups of the applicant congregate in the Hall for regularly scheduled events. Three rooms in the downstairs area are used for church storage. (Tr. p. 43, 58-60)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, . . .

The party claiming a tax exemption has the burden of proving that the property clearly falls within the statutory exemption and there is a presumption that no exemption from property tax is intended. Victory Christian Church v. Department of Revenue, 264 Ill.App.3d 919 (1st Dist. 1994). The applicant was granted a property tax exemption by the Department for 20% of the 1996 assessment year for the subject parcel, thereby establishing that the applicant is a religious organization and that the parcel qualifies for an exemption for a portion of the taxable year at issue. The applicant has requested an exemption for an additional 39% of the assessment year. Therefore, the only question before me is the use of the parcel by the applicant during the period of May 30, 1996, through October 19, 1996.

In the case of Weslin Properties, Inc. v. Department, 157 Ill.App.3d 580 (1987), the Appellate Court held that property which was under development and adaptation for exempt use, qualified for exemption. In that case, Weslin Properties purchased a 24.3-acre tract on May 26, 1983 to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983, Weslin Properties approved a site plan and hired an architect. Then in 1984, construction of the Urgent Care facility began. In 1985, the Urgent Care Center was completed and occupied. The Court held that the Urgent Care facility qualified for exemption during 1983, but that the remainder of the parcel did not qualify, as there had not been sufficient adaptation and development for use of the remainder of said parcel during 1983. The Court in Weslin noted that the parcel there in issue was to be used as a medical campus, which was a complex and costly undertaking, requiring several years to be completed.

The facts in Weslin are illustrative of what the courts consider sufficient adaptation of a parcel for a property tax exemption. The applicant herein held numerous committee meetings, both prior to and after the acquisition of the Hall, to consider the most feasible, sensible, economic, and legal use of the subject parcel. Problems with the building and safety codes of the city of Effingham were encountered. Renovations were required before the building could even be used for meetings. By the time of the hearing, the applicant had adapted the Hall to such an extent that it was used regularly for three Sunday school classes as well as meetings of

applicant's groups. I therefore find that sufficient adaptation of the subject property and building occurred between the period of May 30, 1996, to October 19, 1996, to qualify this parcel for an exemption for that time period.

It is therefore recommended that Effingham County Parcel Index No. 03-16-051-001 be granted a property tax exemption for the period of May 30, 1996 through December 31, 1996, or for 59% of the 1996 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative law Judge
August 31, 1998